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A Unit of Information Technology

August 8, 1997

EX PARTE OR LATE FILED

Regina M. Keeney, Chief
Common Carrier Bureau
Federal Communications Commission
2025 M St., NW
Washington, DC 20554

Re: Ex Parte Communications in CC Docket No. 96-262
Access Charges

Dear Ms Keeney:

Congressman Barney Frank has forwarded to me a copy of your letter to him of July 1, 1997 replying to the comments regarding the FCC's recent efforts at "Access Reform" which I had sent him on May 1, 1997. In order not to unduly burden Mr. Frank and his staff, I am taking the liberty of replying to you directly, with the hope of clarifying some of the issues on which we appear to disagree.

First, I want to take this opportunity to thank you and your colleagues at the FCC for undertaking a serious re-examination of access charges, which, as we all know, have not even been remotely cost-based and which, therefore, have caused uneconomic responses to ripple through various telecommunications markets. To the extent that the Commission has seriously addressed this problem, it is to be congratulated.

The biggest single flaw in the FCC's announced solution to this problem -- not touched on in your letter of July 1, 1997 -- is that the FCC has given back to the RBOCs in its Access Order (CC Docket 96-262) what it had, to a modest degree, taken from them in its Price Cap Performance Review (CC 91-213). That is, through a sheer failure of nerve, the FCC has determined to significantly "make whole" the RBOCs by adopting what is essentially a "revenue-neutral" approach to rate rebalancing. It is doing so on a wholly unjustified embedded cost or "revenue requirement" basis, rather than on a forward-looking economic cost basis. This unfortunate political decision on the Commission's part will have the result of canceling-out for many users almost all of the benefits of access rate reductions which have long been overdue, and, for large Centrex users like Boston University, will almost certainly result in huge price increases.

Thus, although the principles applied by the FCC to access charge restructuring are basically sound (shifting much cost recovery from MOU to NTS), applying those principles to a fixed and swollen bucket of LEC historical "costs" amounts to little more than rearranging the furniture.

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Turning to your specific comments, it is technically correct that, as you wrote Congressman Frank, the new PICC "will be paid by long distance carriers." But that is only playing with words. Can you seriously think that, as soon as their current contracts with customers have expired, the PICC charge will not be passed along to us on way or another? Every other such charge has become part of the long distance carriers' cost of doing business, and nothing in the nature or amount of the PICC leads me to think that it is any different. End users, such as Boston University, will most certainly pay for the IXC's new PICC costs in one way or another.

Next you say that by its June 16, 1997 tariff filing, NYNEX "will actually lower its multi-line business SLC by 2 cents per line beginning July 1, 1997." Perhaps you are not aware, as I am, that, although no formal official announcement has been made, NYNEX along with the other regional phone companies intend to increase the SLC on January 1, 1998 from the existing $5.92 (the $5.98 you list in your letter is incorrect) to some new higher rate. In meetings with large customers, NYNEX has unofficially suggested that the new SLC rate here may be somewhere between $7.50 and $8.00 in 1998 alone. Also, your own commission (FCC) has estimated in its own report that the new nation-wide average for SLC will increase to $7.61 per month. To quote the FCC: "in 1998, the average SLC for the multi-line business lines of incumbent price cap LECs is estimated to be approximately $7.61 per month." (See Report No. CC 97-23) Your "belief," therefore, that FCC "orders will [not] have the impact on Boston University's budget predicted by Mr. Shea" is demonstrably mistaken.

You go on to say that a further effect of the Commission's orders will be to lower long distance rates by reducing carrier access and the per-minute charges for the local portion of long distance service. True enough. But the savings will, in our case, not come close to compensating for the huge increases in the LEC's assumed NTS "costs" that we will be paying for by means of the SLC and the passed-through PICC. Further, there is great doubt that large users such as Boston University will see <u>any</u> reduction in their long distance rates because, thanks to special access arrangements, we are <u>already</u> paying rates that are much closer to actual cost. The principal beneficiaries of the modest per-minute rate reductions that may flow from the FCC's recent orders are almost certainly going to be users of switched access. While it is laudable, of course, for the FCC to target such users for much-needed rate relief, it is unrealistic, I respectfully suggest, to pretend that these savings can be spent twice, once by users of switched access, and again by large users of special access. Further, the FCC has announced its intention to slap PICC on <u>special</u> access, so the full extent of the disaster that awaits us cannot yet be known.

With respect to the FCC's differing treatment of Centrex vs. PBX phone systems (with which I respectfully disagree), you are correct in saying, first, that the Commission has previously rejected claims that the imposition of SLCs on a per-line and per-trunk basis is unfair, and, second, that the new rules "have not changed the methods" by which such NTS charges are applied to these systems, but have "only increased" the amounts of such charges by upping the SLC and adding the PICC. Putting aside for the moment the philosophical correctness of the Commission's approach to imposing NTS charges on Centrex lines and PBX trunks, the sheer magnitude and suddenness of the increase that we now face -- $4.75 in new SLC and PICC charges per line times 10,000 Centrex lines -- makes a mockery of our attempts to manage our costs in a rational and predictable manner by entering into fairly long-term Centrex contracts. If the FCC had set out to destroy Centrex (which is vital for universities such as ours that are widely spread out in an urban environment), it could hardly have done better.

Thank you for your consideration of these comments and complaints. I realize that making national policy is like making an omelet, and that some eggs will be broken. The problem with the Commission's access reform is that, for telecommunications managers in my position, some very expensive egg is all over our face.

Very truly yours,

James A. Shea - Director

cc: Hon. Barney Frank
The Honorable Reed Hundt, Chairman
The Honorable William Kennard